

## **PUBLIC INTEREST DISCLOSURE A PROCEDURE FOR STAFF TO RAISE CONCERNS ABOUT MALPRACTICE**

### **1. Introduction**

- 1.1 UEA is committed to the highest standards of openness, probity and accountability. It seeks to conduct its affairs in a responsible manner taking into account the requirements of the funding bodies and the standards in public life set out in the reports of the Nolan Committee.
- 1.2 An important aspect of this commitment is the availability of a mechanism whereby staff may voice concerns in a responsible and effective manner. The Council of the University has approved this policy statement and procedure so that when an individual discovers information which he or she believes to show malpractice/wrong doing within the University, this information may be disclosed (if necessary independently of line management) without fear of reprisal.
- 1.3 It is a fundamental term of every contract of employment that an employee will faithfully serve his or her employer and not disclose confidential information about the employer's affairs. The policy set out in this document is intended to assist individuals who believe they have discovered malpractice or impropriety. It is not designed to question financial or business decisions taken by the University; nor may it be used to reconsider any matters which have already been addressed under harassment, grievance or disciplinary procedures, or under the procedure for considering allegations of misconduct in research. Once it is in place, it is reasonable to expect members of the University to use this policy rather than air their complaints outside the University.
- 1.4 The Public Interest Disclosure Act gives legal protection to employees against being dismissed or penalised by their employers as a result of publicly disclosing certain serious concerns, provided they do so in a responsible way; and this would normally involve following internal procedures initially where they exist.

### **2. Scope of Policy**

- 2.1 A number of policies and procedures are already in place including grievance and disciplinary procedures, misconduct in research procedures, and harassment and equal opportunities guidelines. This policy is intended to cover concerns which are in the public interest and may (at least initially) be

investigated separately but might then lead to the invocation of such procedures. Concerns raised might relate to:

- financial malpractice or impropriety or fraud
- failure to comply with a legal obligation or with the Statutes, Ordinances or Regulations of the University
- dangers to health and safety or the environment
- criminal activity
- academic or professional malpractice
- improper conduct or unethical behaviour
- attempts to conceal any of the above

### **3. Safeguards**

#### *Protection*

- 3.1 This policy is designed to offer protection to those employees of the University who disclose such concerns provided the disclosure is made:
- (i) in good faith, and
  - (ii) in the reasonable belief of the individual making the disclosure that it tends to show malpractice.
- 3.2 The individual will also be protected if he or she makes the disclosure to an appropriate person/body (see Section 4 below). It is important to note that no protection from internal disciplinary procedures is offered to those who choose not to use the procedure.

#### *Confidentiality*

- 3.3 The University will treat all such disclosures in a confidential and sensitive manner. The identity of the individual making the allegation may be kept confidential so long as it does not hinder or frustrate any investigation. However, the investigation process may reveal the source of the information and the individual making the disclosure may need to provide a statement as part of the evidence required.

#### *Anonymous Allegations*

- 3.4 This policy encourages individuals to put their name to any disclosures they make. Concerns expressed anonymously are much less powerful, but they may be considered at the discretion of the University.

- 3.5 In exercising this discretion, the factors to be taken into account will include:
- the seriousness of the issues raised;
  - the credibility of the concern; and
  - the likelihood of confirming the allegation from attributable sources.

#### *Untrue Allegations*

- 3.6 If an individual makes an allegation in good faith, which is not confirmed by subsequent investigation, no action will be taken against that individual. If, however, an individual makes malicious or vexatious allegations, and particularly if he or she persists with making them, disciplinary action may be taken against the individual concerned.

### **4. Procedures for Making a Disclosure**

#### *Initial Step*

- 4.1 With the exceptions indicated below, the individual should make the disclosure to the Chief Resource Officer who should immediately inform the Vice-Chancellor and the Chairman of Council, unless requested not to do so by the discloser.

N.B. Since the Chairman of Council might be involved at a subsequent stage if the disclosure were to be re-made under the Feedback Procedure described below, the Chairman should at this stage be informed only of the **fact** of the disclosure being made.

- 4.2 If the disclosure is about the Chief Resource Officer, it should be made to the Vice-Chancellor. If the disclosure is about the Vice-Chancellor, it should be made to the Chairman of Council.
- 4.3 If the individual does not wish to raise the matter with either the Chief Resource Officer or the Vice-Chancellor, he or she may raise it with the Chairman of the Audit Committee if the issue falls within the purview of that Committee, or with the Chairman of Council.
- 4.4 In cases involving financial malpractice, the Chief Resource Officer should act throughout in close consultation with the Vice-Chancellor, as the Accounting Officer for the University's public funding.

#### *Process*

- 4.5 The person to whom the disclosure is made will consider the information made available to him/her and decide on the form of investigation to be undertaken. This may be
- to investigate the matter internally

- to refer the matter to the police
  - to call for an independent inquiry
- 4.6 If the decision is that investigation should be conducted by more than one of these means, the person making that decision should be satisfied that such a course of action is warranted, the possibility of double jeopardy notwithstanding.
- 4.7 Where the matter is to be the subject of an internal inquiry, the person to whom the disclosure is made will then consider how to conclude whether there is a *prima facie* case to answer. This consideration will include determining
- who should undertake the investigation
  - the procedure to be followed
  - the scope of the concluding report.

#### *Investigation*

- 4.8 Normally an Internal Auditor or an officer or member of the University independent of the issue and of the parties involved will undertake this investigation and will report his/her findings to the person to whom the disclosure was made. Investigations should not be carried out by the person who will have to reach a decision on the matter. Any investigation will be conducted as sensitively and speedily as possible.
- 4.9 Where a disclosure is made, the person(s) against whom the disclosure is made will be told of it, and of the evidence supporting it, and will be allowed to comment before any investigation, or further action, is concluded.
- 4.10 As a result of this investigation other internal procedures may be invoked, such as
- disciplinary
  - grievance
  - harassment
  - misconduct in research
- 4.11 In some instances it might be necessary to refer the matter to an external authority for further investigation.

#### *Feedback*

- 4.12 The person to whom the disclosure was made will inform the individual making the disclosure of what action, if any, is to be taken. If no action is to be taken the individual concerned should be informed of the reason for this and allowed the opportunity to remake the disclosure to another appropriate person. For example, if the initial disclosure was made to the Chief Resource Officer or the Vice-Chancellor, the subsequent disclosure might be made to the Chairman of Audit Committee or Chairman of Council. If the initial disclosure was made to the Chairman of the Audit Committee the subsequent disclosure should be made to the Chairman of Council, and *vice versa*.
- 4.13 This other person will consider all the information presented, the procedures that were followed and the reasons for not taking any further action. The outcome of this will be either to confirm that no further action is required or that further investigation is required and will follow the procedures referred to above.

#### *Reporting of Outcomes*

- 4.14 A report of all disclosures and any subsequent actions taken will be made by the Chief Resource Officer who will retain such reports for a specified period of time (e.g. three years). In all cases a report of the outcomes of any investigation will be made to the Audit Committee in detail where the issue falls within its purview, and in summary in other cases as a means of allowing the Committee to monitor the effectiveness of the procedure.

Human Resources Division